

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2004-42-C - ORDER NO. 2004-472

OCTOBER 6, 2004

IN RE: Joint Petition for Arbitration of New South)	ORDER GRANTING
Communications Corp., NuVox)	JOINT MOTION FOR
Communications, Inc., KMC Telecom V,)	LEAVE TO WITHDRAW
Inc., KMC Telecom III LLC, and Xspedius)	
(Affiliates) of an Interconnection Agreement)	
with BellSouth Telecommunications, Inc.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Joint Motion to Withdraw the Petition for Arbitration in this case. The Joint Movants move for an Order granting them leave to withdraw their Petition for Arbitration without prejudice to refiling of same. BellSouth Telecommunications, Inc. (BellSouth) joins in and supports the Motion.

The Joint Movants seek to withdraw their Petition in order to allow the parties to incorporate the negotiation of those issues precipitated by *United States Telecom Association v. FCC*, 359 F. 3d 554 (D.C. Cir. 2004) (“USTA II”), as well as to continue to negotiate previously identified issues outstanding between the Joint Movants and BellSouth. Both the Joint Movants and BellSouth have agreed that they will continue to operate under their current Commission-approved interconnection agreements until such time as they move into a new agreement (either via negotiated agreement or via arbitration pursuant to a subsequent petition for arbitration of a new interconnection agreement). The Parties further agree that any subsequent petition for arbitration will be filed within 135 to 160 days of entry of a Commission Order granting this Motion. Additionally, the Parties agree that any new issues added to a subsequent petition for

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arbitration will be limited to issues that result from the Parties' negotiations relating to USTA II and its progeny.

The Parties submit that allowing the Petitioners to withdraw their Petition without prejudice to the refiling of same serves the public interest. No party will be prejudiced by withdrawal of the Petition, because no party will waive or lose any procedural or substantial right as a result of withdrawal.

Accordingly, the parties request that the Commission issue an Order granting the Joint Movants leave to withdraw their Petition for Arbitration without prejudice to the refiling of same. We grant the Motion. The parties are hereby allowed to withdraw their Petition, without prejudice, and under the terms stated in the Joint Motion to Withdraw.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
G. O'Neal Hamilton, Vice Chairman

(SEAL)